

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	
)	
RAMIZ ZIJAD HODZIC,)	No. 4:15 CR 49 CDP / DDN
a/k/a Siki Ramiz Hodzic, et al.,)	
)	
)	
Defendants.)	

MEMORANDUM AND ORDER

Before the court is the *pro se* motion of defendant Ramiz Zijad Hodzic for the appointment of new counsel under the Criminal Justice Act (ECF No. 295). A hearing was held on the motion on June 23, 2016. At this hearing, the court considered statements of counsel for the government, counsel for defendant, and defendant Ramiz Zijad Hodzic on his own behalf.

Shortly after defendant was arrested and brought before the court, the court appointed the Federal Public Defender for this district to represent him on February 6, 2015. (ECF No. 19.) In his motion, defendant argues (1) his defense counsel are not working in his best interests to develop an effective defense, (2) he and they are unable to communicate effectively, (3) they "do not meet my satisfaction," and (4) he wants counsel appointed who has an interest in his defense and who "is not biased in any way." (ECF No. 295.)

On such a motion, the Eighth Circuit Court of Appeals has directed the district court to inquire thoroughly into the factual basis for the defendant's asserted dissatisfaction with appointed counsel. *Smith v. Lockhart*, 923 F.2d 1314, 1320 (8th Cir. 1991). This court conducted such a hearing.

The relevant factors for deciding a motion to replace appointed counsel include whether there is "good cause to warrant substitution of counsel, such as a conflict of interest, an irreconcilable conflict, or a complete breakdown in communication between the attorney and the defendant." *Id.*; see also *United States v. Barrow*, 287 F.3d 733, 737 (8th Cir. 2002). "A criminal defendant does not have the absolute right to counsel of his own choosing." *United States v. Espino*, 317 F.3d 788, 798 (8th Cir. 2003). The focus of the court's inquiry must be on the adversarial process, whether defense counsel provides "zealous representation," irrespective of whether or not defendant shares his counsel's opinions on tactical decisions. *Barrow*, 287 F.3d at 738.

The Federal Public Defender's Office represented defendant zealously. It has had more than 40 conversations with the United States Attorney's Office about pretrial discovery and on other matters related to the case. One or more of the assistant Federal Public Defenders assigned to defendant have met with defendant approximately monthly, and their investigative staff have met with defendant regularly. Defendant's counsel have filed meaningful motions for relief on his behalf, including a motion to dismiss the indictment, which is pending before the court. That said, during the hearing, defense counsel stated they understand defendant's personal frustration, given the nature of the case, and they will endeavor to have more frequent personal meetings with him.

From the record before it, the court denies the motion to replace the Federal Public Defender's Office as counsel for defendant Ramiz Zijad Hodzic. There is no conflict of interest between defendant Ramiz Hodzic and his counsel, no other irreconcilable conflict between them, no substantial breakdown in meaningful communication, no basis for believing defendant's counsel are biased against him or unwilling to do all they can for him, and no other basis for good cause to replace counsel.

Considering the nature of the case, replacing current counsel would deprive defendant Ramiz Zijad Hodzic of a vast amount of knowledge and experience with the

case, it would deprive him of the excellent capability of the Federal Public Defender's Office, and it would not likely increase the quality of his legal representation.

For these reasons,

IT IS HEREBY ORDERED that the motion of defendant Ramiz Zijad Hodzic for new counsel (ECF No. 295) is denied.

/s/ David D. Noce
UNITED STATES MAGISTRATE JUDGE

Signed on June 24 , 2016.